

**CITY OF MORGAN HILL
JOINT REGULAR CITY COUNCIL AND
REGULAR REDEVELOPMENT AGENCY MEETING
MINUTES – JANUARY 24, 2007**

CALL TO ORDER

Mayor/Chairman Tate called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Lee, Sellers, and Mayor/Chairman Tate

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

INTRODUCTIONS

The following recently hired City employees were introduced by their respective Department Directors/Supervisor(s): Director of Community Development Molloy Previsich - Elizabeth Bassett, Development Services Technician; Commander Sampson: Estefana Catbagan-Lavia, Public Safety Dispatch and D'Arcy Gallagher, Dispatch Supervisor; Finance Director Dilles - Lydia Gamino, Accounting Assistant II; Recreation & Community Services Director Rymer: Sandra Diner, Office Assistant II; and Deputy Director of Public Works Struve: Brian Sharp, Maintenance Worker I and Richard Wake, Utility Worker I.

PROCLAMATIONS

Mayor Tate presented Ken Waldvogel, Acting Santa Clara County Fire Chief, and Jim Xavier and Brad Spencer, retired fire personnel, with a Certificate of Recognition, recognizing the Santa Clara County Fire Department for providing 100-years of outstanding service to the City of Morgan Hill.

RECOGNITIONS

CITY COUNCIL REPORT

Council Member Sellers stated that last fall the City successfully passed Measure F, a measure that came out of the Council's Economic Development Committee. It was his understanding that the Planning Commission has assigned a subcommittee to review Measure F, and that it was his hope the Planning Commission would expedite their work and bring their recommendations before the Council so that the implementation of Measure F can get underway. He indicated that Measure F would provide more

opportunities for housing in the downtown core area; responding to the market needs unique to the downtown. Measure F would allow the City to provide incentives to the private sector to add more housing to the City's core. He stated that he has been serving on the Board of the Valley Transportation Authority (VTA) as of January 2007. He indicated that this is a significant commitment, and is also a significant opportunity for the Council, as a community, to be involved with regional transportation issues. One program coming from this Board is the Community Bus Program. He noted that Morgan Hill has a main line in bus 68 that goes north and south. There are also other routes that go east and west that few citizens ride. He indicated that VTA has decided to look at what services are being provided in the community and how services can be better provided. He noted that VTA has a successful Community Bus Program in Los Gatos. This program uses buses half the size of typical buses, and has been a successful program. VTA is looking at implementing a similar program in Morgan Hill. He stated that a public meeting was held on Monday, and that it was his understanding that it was well attended with significant impact provided. It was his hope that significant community input is provided on the best way to route buses throughout Morgan Hill. He indicated that Depot Street improvements are due to be completed in February 2007. He knows that merchants, residents and property owners have been patiently awaiting completion of the improvements. He felt that these improvements will be a great addition to the downtown. He commended everyone involved with the dog park grand opening last Saturday; a wonderful event. He stated that the dog park effort is attributed to several volunteers who worked with the Community Foundation and City staff.

CITY COUNCIL COMMITTEE REPORTS

Mayor Tate indicated that the Financial Policy Committee met prior to the City Council/Redevelopment Agency meeting at 6:00 p.m. He stated that the major purpose of this evening's meeting was to receive a report back from the City's auditors. He said that the annual audit has been completed, and that all financial forms have been submitted in their proper form. He was pleased to hear about the City's financial status and congratulated the Finance Department for the ongoing outstanding work they perform.

CITY MANAGER REPORT

City Manager Tewes reported on two items on the Consent Calendar. 1) A recommendation that the Council receive the Comprehensive Annual Financial Report addressed by Mayor Tate. He indicated that the City is required to report accurately the City's financial condition. He was pleased that the City received an award from the California Society of Municipal Finance Officers and the Governmental Finance Officers of America for outstanding financial reporting. When the City receives an opinion from the auditors that the City has fairly and accurately stated its financial conditions, it is critical to the Council's goal of providing transparent government to our citizens so that they know that City staff is accounting properly for the funds for which the City is a steward. Further, that staff is reporting to the auditors, the bond holders, rate payers, and others the City's true financial conditions. He said that City staff is pleased to hear the City once again has a clean audit opinion in the annual comprehensive report. He clarified that part of the award goes toward clarity as well as for being a comprehensive report. He said that the City has identified its future obligations, and provided funding for these obligations. He indicated that one of the future obligations is for the replacement of worn out equipment. He noted that on tonight's agenda, staff is proposing the purchase of six replacement fleet vehicles for the police

department, all of which have approximately seven years of service and more than 90,000 miles. He indicated that the City has set aside monies every year for every piece of equipment so that when it comes time to replace equipment, they are fully funded. He is pleased to receive the auditors report that the City's financial condition is strong.

CITY ATTORNEY REPORT

City Attorney Kern stated that she did not have a report to present this evening.

OTHER REPORTS

Mayor Tate indicated that City Treasurer Roorda will not be able to present his Quarterly Report this evening due to illness.

PUBLIC COMMENT

Mayor/Chairman Tate opened the floor to public comments for items not appearing on this evening's agenda.

Brian Schmidt, Committee for Green Foothills, informed the Council that the Institute Golf Course would probably be coming before the City in a month or two. He indicated that the golf course has had a long and difficult history with the City in being built illegally, and golfing on the golf course without benefit of permits. He stated that the Committee for Green Foothills and the Santa Clara County Audubon Society have tracked the golf course. He said that 35 conditions were imposed as part of receiving permission to develop the golf course. He indicated that a large number of these conditions have not been fulfilled and that they are behind schedule. He informed the Council that the Audubon Society has been talking to staff about this issue, and that it will be an issue that will return to the Council. He said that these two groups have serious concerns about the situation, and that it is their hope their concerns can be resolved quickly and amicably.

No further comments were offered.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

Agenda adopted as printed.

City Council Action

CONSENT CALENDAR:

Council Member Lee requested that Item 3 be removed from the Consent Calendar.

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1, 2 and 5-7, as follows:*

1. **EXTEND APPOINTMENT TERMS FOR THREE (3) PARKS & RECREATION COMMISSION MEMBERS FOR ONE-YEAR**

Action: ***Extended** Appointment Terms for Parks & Recreation Commissioners Alan Clark, Laura Hagiperos, and Katherine Hardt-Mason for One Year, Terms Expiring April 1, 2008.*

2. **DECEMBER 2006 FINANCE AND INVESTMENT REPORT – CITY**

Action: ***Accepted** and **Filed** Report.*

4. **APPOINTMENT OF AN ALTERNATE TO THE SANTA CLARA COUNTY HOUSING & COMMUNITY DEVELOPMENT CITIZEN ADVISORY COMMISSION**

Action: *1) **Approved** Mayor's Appointment of Laura Gonzalez-Escoto as the City Council's Alternate Citizen Representative to the Santa Clara County Housing & Community Development's Citizen Advisory Commission; and 2) **Directed** Business Assistance and Housing Services Personnel to Notify the Santa Clara County Housing & Community Development Department of Said Appointment.*

5. **REJECTION OF BID TRAILER MOUNTED POWER-VACUUM AND WATER-JETTING SYSTEM**

Action: *1) **Rejected** Bid Received on January 9, 2007 for a Trailer Mounted Power-Vacuum and Water-Jetting System; and 2) **Authorized** Staff to Re-Bid.*

6. **APPROPRIATE FUNDS FOR UPDATING THE BIKEWAYS MASTER PLAN**

Action: ***Appropriated** \$28,000 in Additional Funds from the City's Current Year Un-Appropriated Parks Maintenance Fund Balance (302), to be Reimbursed with a VTA Grant Later this Year.*

7. **ADOPT ORDINANCE NO. 1817, NEW SERIES**

Action: ***Waived** the Reading, and **Adopted** Ordinance No. 1817, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MC-05-03: MONTEREY – GUNTER. (APN 726-23-008) (DA-06-06: MONTEREY - GUNTER)***

3. PURCHASE OF POLICE VEHICLES

Council Member Lee indicated that last fall, there was an item on an agenda prior to her being on the Council regarding the replacement of public works vehicles. It was her opinion, at the time that there seemed to be a great amount of money being spent on vehicles that seemed to be low in mileage. She inquired whether there was a mileage threshold that is considered, or is the recommendation based on the replacement year schedule.

City Manager Tewes responded that for police vehicles, replacement is based on age and mileage, whichever is reached first. With regards to other City vehicles, he indicated that staff evaluates all conditions. If a vehicle that is otherwise scheduled to be replaced is not being replaced, the rental charge for its replacement is credited to the department; a savings. He informed the Council that City staff tries to extend the fleet as long as possible.

Council Member Grzan noted that it is being recommended that the City purchase vehicles from Folsom Ford under a State contract. He inquired if there was a reason the City is not purchasing the vehicles from a local dealership.

City Manager Tewes indicated that City staff has had good experience in using the State contract, and has found that the prices are very competitive. He informed the Council that the City has purchased vehicles from local dealerships, but the issue is availability in this case.

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Sellers, the City Council unanimously (5-0): 1) Authorized Vehicle Purchases for a Total Cost of \$238,491 from Folsom Ford; and 2) Declared Vehicles on Spreadsheet as Surplus and Authorized Sale at Auction.*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Vice-chair Carr and seconded by Agency Member Sellers, the Redevelopment Agency Board unanimously (5-0) Approved Consent Calendar Item 8, as follows:*

8. DECEMBER 2006 FINANCE AND INVESTMENT REPORT – RDA **Action: Accepted and Filed Report.**

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 9 as follows:*

9. ANNUAL FINANCIAL REPORTS FOR FISCAL YEAR 2005-2006

Action: *1) City Council Action: **Accepted** and **Filed** Comprehensive Annual Financial Report and Single Audit Report for Fiscal Year 2005-2006 and 2) Redevelopment Agency Board Action: **Accepted** and **Filed** Financial Statements for the Redevelopment Agency for Fiscal Year 2005-2006.*

City Council Action

OTHER BUSINESS:

10. PRESENTATION OF INDUSTRIAL LANDS AND SOUTHEAST QUADRANT (SEQ) MARKET STUDY, AND DISCUSSION STEPS

Director of Community Development Molloy Previsich introduced Tom Feeney, the economic consultant with the Pacific Group who prepared the Industrial Lands and SEQ Market Study. She indicated that Mr. Feeney will present the major findings of the study. Following his presentation, she would address the recommended next steps based on the findings and information contained in the Study.

Tom Feeney, Principal with the Pacific Group, informed the Council that they were the economic consultant firm that was retained to evaluate industrial lands and the SEQ. He summarized the analysis and conclusions drawn from the Study. He informed the Council that they looked at: 1) all the industrial lands within the City in terms of suitability; 2) looked at potential new industrial lands in the SEQ, particularly around the Tennant and Murphy areas; 3) projected the need for industrial lands in the city; 4) and looked at the potential to develop a special sports recreation concept in the SEQ intended to be for privately developed recreational usage, should there be an interest in the area/market.

Mr. Feeney stated that for the industrial study, they looked at vacant land/buildings, the suitability of the land/buildings, and the availability in Morgan Hill and in many cities throughout the County; including Coyote Valley. He addressed the demand for industrial land and the supply for industrial space. He displayed a map that included all the industrial lands located within the City and potential industrial-commercial land in the SEQ. He indicated that they looked at projected employment in the area for the next 20-years and estimated how much of this number would be accommodated in an industrial park or an industrial development type use. They then converted that amount of employment and found that over 20-years there would be approximately 9,800 new jobs. You apply this number to the number of square feet needed per job in order to come up with how much square feet of new space is needed to absorb each year. He indicated that this estimate would be 144,000 square feet per year.

Mr. Feeney addressed the various scenarios studied. He indicated that the total vacant industrial acres equates to approximately 556 acres. Taking this number of acres and converting it into how much building you can place on this acreage; you would have approximately 8.5 million square feet of potential building. He noted that there is approximately 1.2 million square feet of vacant building space. Therefore, over the next 20-years, the City has the potential to absorb 9.7 million square feet. Should the City only be able to absorb 144,000 square feet per year, it would take 67 years to use up the existing, currently zoned industrial lands. He indicated that other scenarios are less stringent in their assumptions. He indicated that there are a wide range of assumptions, but even with a conservative assumption, there is enough vacant land and buildings in Morgan Hill to satisfy its projected demand for the next 30-years.

Mr. Feeney stated that they were comparing the appeal/suitability of some of the land in the SEQ for industrial development. He indicated that the basic conclusion is that the SEQ is appealing because of its location, it would be easy to assemble, and the land costs would be lower than other lands in the city. The SEQ could easily have access to a major infrastructure. He said that it could be that 15-20 years from now, the City would be trying to decide whether it should move into the area bounded by Murphy and Tennant or the area located south of Tennant Avenue, east of the railroad tracks. He said that it was their opinion that the area depicted in blue in the SEQ would be more appealing; noting that there are a number of dwelling units in area #2 that would create several problems (e.g., assembly, costs).

Mr. Feeney indicated that a part of the study looked at the entire SEQ for an alternate use; particularly if additional industrial lands are not needed. He stated that one of the main options suggested was a complex that focuses on outdoor recreation and sports uses that would not be a public facility. The outdoor recreation and sports complex would be established as a zone, specific plan, or master plan that would encourage private developers to come in. He indicated that he contacted a sample of private owners, operators, and developers in this field that included major league/soccer, a driving golf range, RV parks, and any use that had something to do with an outdoor recreational theme. The conclusion of these contacts was that there is an interest in the area based on its proximity to the bay area. He informed the Council that the primary advantages cited was that there is a large block of land that has the potential of being assembled and master planned; land values would be lower, its visibility from Highway 101, and its direct access to two interchanges. He said that everyone he spoke to understood what they were trying to convey. He said that it was expected to end up with small related retail uses such as an REI or a Bass Pro Shop that sells outdoor sports equipment with educational activities and an exhibit area. However, this area was not visualized as another shopping center. He stated that the basic conclusion of this part of the study was that this concept had some merit, and would make sense to get back to all contacts as they expressed an interest in further discussions. He informed the Council that they were not trying to come up with a final conclusion about what to do with this area, but trying to provide information so that the Council and staff can make the decision.

Council Member Sellers noted the map shown initially identified two parcels, but not the Hesperia site; the home of one of the City's employers. He indicated that the Hesperia site was identified as a vacant site. He inquired whether this was an oversight, or was it in fact vacant land.

Ms. Molloy Previsich informed the Council that half of the Hesperia site was underdeveloped and underutilized.

Council Member Grzan referred to the blue area as depicted on the map. He felt that it appears much smaller than what the SEQ really is. He inquired why these area/parcels were selected.

Mr. Feeney said that this area was identified because the City does not need a 1,000 acre business park. He noted that the recommendation from the Urban Limit Line (ULL) Study was to have a business park in the range of 200+ acres. He said that this makes sense from an economic point of view as you need this amount of land to cover the overhead costs associated with the infrastructure. He said that the SEQ intersection was the starting point. He clarified that the blue area represents approximately 250 200 acres of contiguous area.

Council Member Grzan inquired as to what is being proposed with the area outside of the blue area going east toward the foothills.

Mr. Feeney responded that the only other use looked at was a sports-recreation concept. This use is an alternative to industrial uses. He clarified that the blue area represents potential industrial area and the area outside the blue area is proposed for a sports-recreational component. He indicated that recreational retailers would be interested in the SEQ because of the visibility from Highway 101. He indicated that the blue area comprises approximately 250-acres and could be potentially designated for industrial uses. The light blue consists of approximately 50-acres, and was considered for potential commercial retail. He indicated that the entire SEQ equates to approximately 1,250 acres; noting that some of this area is located in the hillsides, and not considered suitable for industrial lands. Should the City decide to proceed with a commercial-recreation concept, the City would need to conduct a survey of the residents to find out their interest in this concept. The City would want the lands to be somewhat contiguous in order to put together a large enough parcel that would have an identity.

Council Member Grzan inquired as to the type of regulatory hurdles the City would have to overcome to include the SEQ as industrial land.

Ms. Molloy Previsich clarified that Mr. Feeney's report was an assessment of industrial lands and a test of the market with regards to a sports and recreation use. A recommendation for an area plan was not part of Mr. Feeney's scope of work. She indicated that she would address the next steps of how the City would begin to move forward with some of the parts related to the study.

Mr. Feeney indicated that he contacted approximately 30 organizations and companies of which some were not suitable, or did not have an interest in this area. There were approximately 20 contacts that expressed an interest in the area and are included on page 36 of the report. In response to Council Member Grzan's question, he indicated that he contacted the City of Gilroy to determine if they have competing interests. He did not believe the City of Gilroy has anything taking place in the near future that would directly compete with this concept. He indicated that the City of Gilroy is thinking about local serving community facilities.

Mayor Pro Tempore Carr said that as he read the report, he focused on the trends of the vacancy rates today; noting that it was indicated that there is a 22% total vacancy rate. He indicated that this amount exceeds the average vacancy rate in the County; particularly in areas such as warehouse and industrial uses. He inquired whether the report outlined any particular reasons for this vacancy rate.

Mr. Feeney stated that San Jose has the market that tends to pick up first as they are the leading market. Unfortunately, because of its location, Morgan Hill waits until things turn around in San Jose before activity is seen in the city.

Mayor Pro Tempore Carr noted the report indicates there are other circumstances that were not recognized in the 22% vacancy rate that is also about hidden vacancies. He inquired whether Mr. Feeney had a way to estimate the hidden vacancies.

Mr. Feeney explained that this information was based on ~~antidotes~~ anecdotes from brokers informing him that rentals were at half market rates, or that rentals are vacant. However, this information does not show up in numbers. Whatever the adjustment factor is, it is no greater in Morgan Hill than it is anywhere else.

Council Member Lee noted that in a couple of areas throughout the report, it indicates having the Redevelopment Agency become involved. She indicated that a lot of the areas are located outside the redevelopment agency, and inquired why this information was not included in the report.

Mr. Feeney said that the report was providing creative solutions for ways the public sector could get involved. He could not define which areas of the City the Redevelopment Agency could get involved.

Council Member Lee noted that the area from Butterfield Boulevard, Tennant Avenue to Watsonville Road is located outside the Redevelopment Agency area.

City Manager Tewes indicated that Butterfield Boulevard, from Tennant to Watsonville Road, is a project the Council, acting as the Redevelopment Agency, and committed redevelopment funds to last week. He said that within the project area is where a lot of the vacant warehouse space is located. The space is vacant because it is older space, and if not now obsolete, will soon be obsolete. When individuals need low cost warehouse space, they tend to go to other locations rather than Morgan Hill. This is one of the blighting influences the City identified in redevelopment studies. With respect to the R&D vacancies, he stated that many of these are located within the Morgan Hill Business Ranch which was recently excluded from the redevelopment project area. Therefore, redevelopment assistance could **not** be used in this area.

Ms. Molloy Previsich provided the Council with background information; indicating that this is an interesting study as it relates to other work items that are on the City's "to do list." She indicated that the reason the City proceeded with this study was attributed to the fact that staff was working on the urban limit line (ULL) and the greenbelt study. She stated that there were a number of ideas that came from the advisory committee for what could/should happen at the SEQ (e.g., potential for a couple of 100-acres for an industrial park, focal point for the City's greenbelt and open space efforts, etc.). She said that the Council decided to move forward with the establishment of a ULL through the City, but not with the SEQ. The Council further decided to adopt various greenbelt policies that would apply throughout the City except for the SEQ. The Council directed staff to perform a market study in order to be better informed of the need, or whether it was realistic to consider industrial land in the SEQ. Therefore, the Council directed staff to hold off on further work on greenbelt financing and implementation, and the possibility of an area plan for the SEQ until the City receives this information.

Ms. Molloy Previsich noted that some of the recommendations for the next steps go back to a ULL, greenbelt, open space and industrial lands. She addressed the recommendations as contained within the staff reports as it relates to industrial lands. She indicated that staff recommends the Council determines that the City will not pursue designation of industrial lands in the SEQ. She said that it became evident that the City may have an oversupply of industrial lands. She informed the Council that a portion of the land designated for industrial use, as a result of the 2001 general plan, is not ready for industrial development. She indicated that the property sits behind an area currently designated for sub regional commercial. Further, the sub regional commercial area has been found to be too small, consisting of approximately 29-acres. She stated that in order to make it a viable sub regional commercial site, as designated/called out in the general plan, the City should consider extending the sub regional commercial designation to Fisher Avenue; increasing the sub regional commercial designation to an approximately 60-acre site in order to be a truly competitive sub regional site.

Ms. Molloy Previsich indicated that another item that has come forward from the South County Circulation Study effort is the fact that Monterey Road, north of Cochrane, needs to become six lanes in the future. A question has been asked as to how the expansion of Monterey Road can be achieved as it can only accommodate three lanes. She noted the City elected to make Butterfield Boulevard a major north/south route. There is a question as to whether a portion of Monterey Road should link up through the industrial park and over to Butterfield Boulevard; eventually connecting to Watsonville Road. She informed the Council that the property owner of the business park has indicated that there was a slow down in the industrial market, and that they are considering making an application to the City for a general plan and/or zoning amendment to increase the flexibility of how these vacant/underutilized lands can be used. Further, there may be the possibility of re-subdividing the lands in order to have smaller lot sizes in the industrial park. This suggests that a good next step for industrial lands is to concurrently update the City-wide traffic model to make it consistent with the South County Circulation Study, and to study the feasibility of changing some of the industrial designated lands to commercial lands this spring. Should the City receive an application for a general plan/zoning amendment application, the City would study this request concurrently.

Regarding the specific recommendation relating to the SEQ, Ms. Molloy Previsich stated that staff is suggesting that it does not appear necessary to move forward with any designation of industrial lands. Should the Council be interested in the idea of the sports-recreation and/or a leisure destination area, a possible next step would be to continue exploring this concept; amending the consultant's scope of services. The consultant would be asked to meet with the property owners to determine support of this concept. Should there be support for this concept, the City could consider developing a special zone and special general plan designation that would only allow these types of use; steering the City toward master planning an area. She informed the Council that the information gathered by the consultant would be brought back to the Council.

Ms. Molloy Previsich addressed the ULL and greenbelt. She indicated that in November 2006, staff informed the Council that LAFCo was proposing agricultural mitigation policies. At that time, the Council directed staff to communicate to LAFCo that as a component of the City's greenbelt program, the City was developing an agricultural and open space conversion policy as a part of phase II of its ULL process. She indicated that it is being recommended that staff use the information that has been generated through the ULL and greenbelt study process, and that it work with the stakeholders through

the Regional Planning & Transportation Committee in order to develop a draft set of open space and agricultural conversion policies. She indicated that this action would be one component of the greenbelt. She informed the Council that the City would work with the stakeholders as part of the City's agricultural mitigation strategy. Should the Council wish to explore the sports-recreation use concept, the City could see how this plays out. The City would develop the agricultural and open space conversion policies in order to determine where it would like its agricultural lands to be preserved. This information would go into the process that would be ~~lead~~ **led** by the Planning Commission in order to develop a recommendation for where the ULL should be drawn.

Ms. Molloy Previsich informed the Council that there is not a need to specifically plan for what types of land uses might ultimately develop in the SEQ at this time as it would be premature to do so, unless the Council wishes to move forward with the sports and recreation use. She informed the Council that LAFCo policies would prevent the City from bringing in land into the urban service area, and into the City limits for commercial, industrial, residential and/or office use because the City already has more than a 5-year supply for these types of uses. She indicated that the special sports-recreation concept could be a designation that would allow lands to be brought into the City sooner, should the Council wish to explore this concept.

Mayor Tate opened the floor to public comment.

Michele Beasley, representing Greenbelt Alliance, said that she read with great interest the results of the Industrial Land Market Study, and felt that it reinforces their position that the SEQ does not need to be included within the ULL as the City has plenty of room for future residential, commercial and industrial growth. She recommended the City focus on two areas: greenbelt and the downtown. She commended the City for pursuing the open space and agricultural lands conversion policy as it would be a good tool to get a greenbelt started. She suggested that instead of always looking to the fringes of the community to see where it should develop next, the City should be reinvesting in its city limits; especially the downtown area. She commended the citizens of Morgan Hill for the passage of Measure F. She felt that the citizens of Morgan Hill could have the best of both worlds by protecting the greenbelts and having a vibrant downtown. She stated that development trends are changing to reflect the needs of investing more in transit and less in highway expansions. By focusing more on compact housing such as townhomes in the downtown, there would be even more land within the urban growth boundary under Measure F, without having to move into the SEQ. She recommended the SEQ remain outside the ULL.

Art Puliafico indicated that he was a member of the ULL committee; therefore, he has a good understanding of the background on where the study comes from. He felt that it would be easy to get lost in the details. He indicated that the ULL Committee found that the area consists of approximately 147 acres for an industrial campus similar to the Cochrane Road area. He noted that there are many subdivisions in the area ~~west~~ **east** of Monterey Road and south of Watsonville Road that contain homes. Therefore, the ability to convert the area into an industrial park would result in the use of eminent domain on some of the lots. Removing the 147 acres out of the available industrial park area may result in not having 30-60 years of industrial park land available. He felt that it would make sense to designate industrial lands on the SEQ where it would be easier to mass the land needed to create another Cochrane Park industrial area. He noted the area ~~west~~ **east** of Monterey Road is located outside the urban service area and would need to go through LAFCo. He indicated that the SEQ is valuable land to the City as it

has great freeway access and is a great location. The land is not subject to flooding and has a great potential for development. He felt the City may lose the ability to mass the area should the property owners develop under County policy. He pointed out that the ULL Committee did not recommend drawing an urban limit line in the area, but to design open space through a master plan.

City Manager Tewes noted that Mr. Puliafico mentioned eminent domain on two occasions. He stated that it would be difficult to assemble certain properties. He indicated that neither the City nor the Redevelopment Agency has the legal authority to use eminent domain to acquire private property in order to convey it to a private property owner.

Brian Schmidt, Committee for Green Foothills, stated that the over arching principle for planned growth in California is that you do not sprawl out cities unless you absolutely have to. If a city does not have a problem, you do not expand it. He felt that Coyote Valley is similar to what is being discussed this evening. He noted that Coyote Valley development would be a problem for the City of Morgan Hill; placing 80,000 individuals between Morgan Hill and the rest of the Bay area. He felt that landowners are trying to find a reason why Coyote Valley needs to be developed, and that the property owners in the SEQ are also trying to find a reason to develop. Given the City's growth control provisions and the consultant's report, it has been found that the City does not need to expand into the SEQ for housing or jobs. While some individuals may try to argue with certain aspects of the consultant's report, he felt that it would be safe to state that the Council could table this idea for ten years. He did not believe a sports and recreation center to be an essential need for the City. Should the Council be considering the idea of a sports and recreation center, he recommended the Council first look at the vacant and underutilized land within the City. He stated that the consultant identified potential uses for relatively small parcels of land (e.g., 5-acre parcels). He noted that this was a 1,200 acre area that would be converted from farmland in order to develop a sports and recreation center. He felt that there would be a problem in attaining LAFCo approval when there is no need to include lands for housing or jobs. He recommended the City drop consideration of the SEQ, and that it focuses on the core issues of a greenbelt, the original focus/reason for this process starting several years ago and the current efforts associated with the downtown.

Gordon Jacoby noted that the report states the City can absorb 140,000 square feet of industrial land per year. He indicated that in Morgan Hill Ranch, during a five year period of growth time, it absorbed three times this amount (e.g., 1.6 million square feet from 1995-2000 and absorbed approximately 140 acres of land). If you compare this to the projections discussed by the consultant, he felt there was a mismatch. He felt that the idea of a sports-recreation use was a creative idea. He noted a synergy associated with local hotels, the sports complex, and the aquatics center. He informed the Council that he owns land at the interchange of Tennant and Murphy Avenues and that he was approached by an individual who was interested in a use listed in the study. He felt that there is a demand for a sports and recreation use in the area. He supported sitting down with planning staff, Mr. Toy, and property owners who are interested in exploring this concept. He felt that it was time to start thinking creatively about this location. Further, that it would be a good idea to follow staff's recommendation and move forward.

Ryan Folkman, representing South Valley Developers, stated that in reading the report, it states there is an abundance of industrial supply. He would like to use this opportunity to initiate a dialogue with the Council and staff in order to determine the City's disposition regarding the potential conversion of some of the industrial properties to potential mixed use properties; specifically, in areas that are directly adjacent to existing residential lands.

Jeffrey Hare, representing a property owner in the Tennant-Hill area, noted that this area lies outside the City's jurisdiction. He noted that the City does not have control over the area; a disadvantage noted on pages 5 and 45 of the report. He said that whether or not the City has industrial, recreation and/or sports uses, the City will need to proceed with a number of items in order to include utilities and other improvements. He indicated the City has been approving uses around the area such as the Condit recreational uses and the American Institute of Mathematics (AIM) project. He noted that it was mentioned that there is a concern with respect to the non compliance with the existing conditions imposed on the AIM project. He stated that there is growth going on all around the area. While the property owners in the SEQ wait in limbo, traffic is increasing steadily and is causing problems. Yet, this concern is not identified anywhere in the report. He felt that traffic issues will need to be identified when projects and development move forward. He said that impacts are resulting from the adjacent areas where the City has some control. He requested the City address the adequacy of the infrastructure, and that the City assist, in cooperation with the County, to ensure that the traffic issues are addressed.

No further comments were offered.

- 1.a. Determine not to pursue designation of industrial lands in the SEQ at this time.

Action: *Council Member Grzan made a motion, seconded by Council Member Lee, not to pursue industrial designation of lands located in the SEQ at this time.*

Mayor Pro Tempore Carr inquired whether the Council would be receiving a recommendation from the Planning Commission on any of the recommended action items before it.

Ms. Molloy Previsich indicated that the City Council and/or the Planning Commission could initiate an industrial land use designation. However, she noted that the study was commissioned for the Council.

Vote: *The motion carried unanimously (5-0).*

- 1.b. Initiate General Plan Amendment to decrease the amount of industrial land and increase the amount of sub regional commercial lands in the South of Tennant/west of Highway 101 area. Coordinate environmental review with RDA funded update of a city-wide traffic model. If feasible, consolidate CEQA review with that for other general plan amendment applications filed by April 2007.

Council Member Grzan stated that he has apprehension in moving forward with any general plan amendments in light of the fact that there are no pressing issues before the Council at this time. It was his belief that the next general plan update could discuss this item, and push it forward at that time. Therefore, he would not approve or vote for initiating a general plan amendment at this time.

Council Member Sellers recommended moving forward with a general plan amendment at this time in order to meet the Council's desire to pursue economic development. He felt the City could explore the viability of additional economic development opportunities in the southwest corner of Tennant and Highway 101. He noted that this area has been a potential for development for some time. He noted that there was some discussion several years ago about putting the first planning stages in place. He felt that this was an opportunity to see what the market will do. If the market is poor, the City could cease moving forward.

Mayor Pro Tempore Carr stated that he would hate to miss the opportunity to coordinate some of the environmental review issues discussed by staff with some of the work that needs to take place with Monterey Road north and with the South County regional study taking place. He stated that how Cochrane progresses and what will be done with the downtown area are priorities to focus efforts. He said that he would hate to miss the opportunity to coordinate the environmental review such that the review is performed only once, and that the review does not incur additional costs and staff time in the review of a second environmental document. He did not know if initiating the general plan amendment speeds up any potential development in the SEQ, or increases the viability of any development as he does not hear a lot of interest in development at this time.

Ms. Molloy Previsich clarified that staff is hearing that the City may receive a general plan amendment application for the Morgan Hill Ranch Business Park to redesignate some industrial lands. She informed the Council that staff needs to update the City-wide traffic model. She indicated that the South County Circulation Study is looking for Morgan Hill to answer the question of how it will accommodate the City's north/south traffic. She said that staff anticipates receiving an application to redesignate some industrial lands in the Morgan Hill Ranch Business Park that may be an opportunity to establish the connection from Monterey Road to Butterfield Boulevard. It may be appropriate to study a larger commercial area at the same time because there may be some significant land use changes that can be evaluated based on an updated City-wide traffic model, and a more realistic projection of what the market might eventual do. She acknowledged the areas identified are located outside the SEQ and does not affect the SEQ. However, the industrial land study took a look at all industrial lands.

Mayor Tate felt the Council has a lot of items lining up because the City tied a study that goes up to the northern industrial area. He noted that Mr. Folkman brought up the issue about land uses within this area and that it appears as though it is a domino affect such that a general plan update will be needed. He indicated that he would hate to have the City conduct to separate environmental reviews.

Action: *Council Member Sellers made a motion, seconded by Mayor Tate, to move forward with an Initiated General Plan Amendment to decrease the amount of industrial land and increase the amount of sub regional commercial lands in the South of Tennant/west of Highway 101 area. Coordinate environmental review with RDA funded update of a city-wide traffic model. If feasible, consolidate CEQA review with that for other general plan amendment applications filed by April 2007.*

Mayor Pro Tempore Carr stated that he would like to avoid duplicating environmental efforts. However, he did not see a need to move forward with a general plan amendment. He felt that alternatives could be evaluated in any CEQA modeling.

Ms. Molloy Previsich said that CEQA documents can look at alternative uses. The fact that the City initiates the environmental review does not necessarily mean the Council would approve the use. She indicated that Butterfield Boulevard will be an important major north-south thoroughfare connection, and will carry traffic through the City. She stated that there may be an opportunity for environmental review at the north end of the city, and that it seemed as though there may be a potential for a land use change at the south end of the City. Therefore, the City could study the land uses. Whether the Council approves the land use change is another question. She indicated that it is the idea that the

Redevelopment Agency would pay for an update to the city-wide traffic model. The City could look toward negotiating a split in costs so that the City would not incur the entire cost for the traffic model. An alternative could be that the City decides not to move forward with the CEQA review should the City not receive a general plan amendment application by April 2007.

In response to Council Member Lee's question, Ms. Molloy Previsich indicated that she was not aware of any potential general plan amendment applications that would involve industrial lands.

Action: *Council Member Sellers and Mayor Tate amended their motion to stipulate that the City would only move forward with this review if there were other general plan amendment applications submitted to the City.*

Council Member Grzan recommended the action be deferred until the City receives a general plan amendment application(s).

Mayor Pro Tempore Carr stated that he would agree to evaluate a general plan amendment at the south end of town should there be other general plan amendments processed in the spring.

Vote: *The motion carried 4-1 with Council Member Grzan voting no.*

2. Direct staff to amend consultant scope of services to meet with SEQ property owners to explore support for and to develop a release for a request for proposal for a Southeast Quadrant "sports/recreation" land use designation and PUD (SEQ S/R PUD)

Council Member Grzan did not know why the City would be pursuing this action as the lands are located outside the city limits, the City would be venturing into speculation, and would be engaging in things the City should not be in light of the fact the City has a lot of other priorities. He noted that this would be a significant area of property the City would be trying to coordinate. He felt that there were other pressing issues within the downtown and in working with the new Redevelopment Agency plan. He did not want to focus his energy on the SEQ at this time. Therefore, he would not be supporting the exploration of a sports-recreation land use designation at this time as he would leave the review of this to the next general plan update.

Council Member Sellers felt the issues were related. He stated that he would like to move forward with this recommendation as the action would not be committing the City to anything. He did not believe it would require a lot of effort on the part of the Council, or too significantly on staff time. The action merely asks the consultant to meet with the property owners, and to explore the opportunities/possibilities that may exist. He felt that a Bass Pro Shop or other opportunities should be pursued within the existing city limits, and felt that there are opportunities to do so. However, there are other opportunities such as recreational opportunities that can only be pursued in the SEQ, and that he would like to review this information. He noted the consultant mentioned that in talking with citizens (e.g., property owners); there may be an overwhelming support for significant recreational opportunities. He felt that it may be valuable for the City to explore whether this interest still exists, and whether there are opportunities to expand the City's regional opportunities that may present themselves. It may be that citizens may be satisfied with the facilities/services the City has provided. The recommended action

requests the consultant to perform a little more work and to talk to property owners; exploring possibilities. There would be no commitment on the part of the City. He felt there would be a significant opportunity for the Council to gain additional information/insight for this area and the entire region. He expressed concern that should the City not do anything in this area, development would occur regardless of what action the City takes. He stated that property owners will make individual decisions, and that these decisions will have a significant impact on the Morgan Hill community. Should the City not take action to preserve this valuable agricultural section of land and view sheds, the community may end up with mansions and/or other types of development. He felt it imperative to look at the larger picture; using the Tennant area to help the City leverage opportunities in order to preserve agricultural lands as well as view sheds in the long term.

Council Member Grzan did not believe there was an immediate need to develop the SEQ, noting the area is located outside the city limits. He indicated that the SEQ became a point of contention in drawing the urban limit line in the area. He noted that many of the property owners served on the Urban Limit Line Committee and posed a number of difficult questions. The questions side tracked to what was intended in the consideration of other options. He noted that an urban limit line was drawn around three quarters of the City with the exception of this area. He felt that the only reason the Council is discussing this issue is because property owners served on the Committee who owned property in this area. He did not see a significant need to develop the SEQ at this time when the consultant and others throughout the presentation this evening have indicated the City has significant property within the city limits to do what it needs to do. He felt the City can speculate on these properties as well as other properties throughout the area for a recreation component or other use(s). He did not believe this was the only area that can serve this purpose should the City wish to pursue it. Further, there would be significant regulatory agency hurdles the City would need to overcome that would make it almost impossible to bring the area within the city limits. He stated that he would not be supporting this portion of the recommendation.

Mayor Pro Tempore Carr said that it would be difficult to talk about this item without talking about the next item, the urban limit line/greenbelt. He stated that he would like to see the City figure out a way to bring the area under the City's control in order to preserve it. If the City does not move forward with having control, the City would give up control over the area. This may result in the lands being developed to the maximum allowed by the County. It may be that the City/residents would be disappointed with large ranchettes being built without any thought being given to development or overall area planning. He was not sure he was ready to state the City should be looking at a request for proposal for any type of development in the SEQ, or in the exploration of specific uses such as a sports recreation use. However, he felt this needs to be reviewed as part of the mix. He felt that thought needs to be given to allowing some of the area to be developed in order to preserve the vast majority of the area. Further, that property owners be given fair consideration in protecting the south end of the community. He felt that the City needs to combine what is being discussed under item 2 with recommendation item 3 as the City moves forward with the action items. The City needs to give consideration to preserving the area and open space mitigations; yet be fair to property owners. He would support this approach rather than stating that the City has enough property within the city limits to accommodate development for the next 31 years and that the City should not worry about the SEQ. Should the City take this approach, he felt the community would end up with development it will not be pleased with. He felt the City needs to figure out ways to preserving the area in partnership with the County.

Council Member Grzan noted that one of the items raised in the process was the need to have an agreement with the County. He indicated that the City of Milpitas and others have agreements with the County for the protection and preservation of open space and hillsides. He noted the City has yet to engage with the County on how the City can partner with them on this particular area. He indicated that it has been mentioned and encouraged that the City engage with the County in order to protect the hillside areas located outside the urban limit line in order to avoid bull dozing the hillsides, only to have large ranch homes developed. He recommended moving forward and engaging the County in looking at other protection preservation agreements that would preserve what we have at this time.

Mayor Tate noted that it has been suggested the Council move on to item 3; returning to conclude item 2 or some variation of the recommendation following discussion of item 3. He stated that he likes the idea of exploring the concept of a commercial-recreation uses in the SEQ. He felt that this use was an innovative proposal that should be explored in more detail. He indicated that a request for proposal sounds to be too specific and/or confining, but that he would like to explore the feasibility of the proposal.

Council Member Sellers felt the action would be stating the City would request the consultant to meet with property owners to discuss opportunities and to look at the market. He recommended that suggestions for use of the SEQ include mitigations that would include the preservation of agricultural lands.

Council Member Grzan noted that it is being proposed that a consultant be retained/paid by the City in order to meet with property owners to develop support for a sports recreation concept at the SEQ. He inquired why the property owners are not being asked to pay for this action. He did not know why the City was engaging in a study for this group of property owners. Should the City perform the study for the property owners, the City may need to do so for other groups of property owners.

Mayor Tate recommended moving forward with item 3 in order to tie some of the action items together to see if questions can be answered.

- 3.a. Direct staff, in conjunction with the efforts to develop open space and agricultural conversion policies and with the effort to revise RDCS competition criteria, to identify the portion of the SEQ which contains agricultural lands and prospect for best long-term viability, which would be the focus of agricultural and open space mitigation/preservation efforts as a component of the City's greenbelt and RDCS program. Staff is to work with the Open Space Authority and other stakeholders in formulating a recommended SEQ mitigation/preservation area and an implementation strategy; and the Council's Regional Planning & Transportation Committee to be assigned this matter and provide a recommendation to the Council.

Council Member Sellers noted that the recommendation is to do what the City can to identify viable agricultural lands that would continue to be viable as agricultural lands and in operation.

Action: *Council Member Sellers made a motion, seconded by Mayor Pro Tempore Carr, to move forward with item 3.*

Mayor Pro Tempore Carr agreed the City needs to identify viable agricultural lands and preserve these lands. However, he did not believe it was a simple thing to state that the City would do so. He felt that is the first step necessary in order to move forward with any other action items. He said that as the City identifies viable agricultural lands, the City needs to identify how these lands would be preserved as open space. He recommended the City consider innovative ideas such as a sports-recreation use. If there are 1,200 acres in the SEQ and the City believes it can preserve 1,100 acres, a determination needs to be made on the highest and best use of the 100-acres in order to assist the City to create a mechanism for preserving the remaining 1,100 acres. He felt that this needs to be thought about in a holistic viewpoint, and that this was the first step in doing so.

Council Member Grzan expressed concern with the Regional Planning & Transportation Committee taking this task on and not the Environment & Utilities Committee. He indicated that the Environmental & Utilities Committee has been a major part of the Urban Limit Line/Greenbelt Study and has been looking at this and the processes.

City Manager Tewes said that when the Council established the Council committees, the kind of work that is proposed here was identified in the scope of work for the Regional Planning & Transportation Committee. However, he felt that it would be appropriate for the Council to consider which committee, if any, it wishes to assign this task.

Mayor Tate noted the Council would be considering all of its committee assignments in the retreat to be held this weekend. Therefore, the Council can decide to reassign this task at that time.

Mayor Pro Tempore Carr felt the County needs to be engaged in discussions and in partnership.

Action: *Council Member Sellers and Mayor Pro Tempore Carr amended their motion to stipulate moving forward with item 3 as recommended; deleting reference to the Regional Planning & Transportation Committee and simply stating the “appropriate Council Committee.” The motion carried unanimously (5-0).*

- 3.b Direct staff and the Planning Commission to consider alternative locations and to forward a recommended location for the urban limit line in the SEQ; identifying some lands that would be SR PUD and/or urban reserve, and considering the work of the RPT Committee regarding agricultural/open space preservation/mitigation policies and greenbelt and open space financing and implementation strategy.

Council Member Sellers noted that it was indicated that LAFCo is currently undertaking the mitigation agricultural policies. He felt the City may want to wait on this recommended action item in order to determine the policies to be adopted by the County.

Council Member Grzan stated that he did not object to deferring action on this item.

Mayor Pro Tempore Carr felt that the previous action taken by the Council regarding the open space and the agricultural conversion policies needs to be at a certain place before the City talks about the urban limit line again.

Ms. Molloy Previsich said that it was staff's suggestion that it would be the Planning Commission that would be charged with considering alternatives before forwarding a recommendation as to where the urban limit line should be drawn in the SEQ to the Council, once the information is developed. She did not see the Planning Commission getting started with this charge because the agricultural mitigation and open space preservation policies would need to be completed.

Council Member Sellers recommended the information return to the Council for discussion before referring this item to the Planning Commission.

Mayor Pro Tempore Carr inquired whether there was a scenario such that once the information is gathered, the information would return to the Council before referring the matter to the Planning Commission.

City Manager Tewes indicated that the issue at hand is which body should initiate this work. He stated that the Council cannot amend the general plan to draw an urban limit line without first receiving a recommendation from the Planning Commission. The question is whether the Council will initiate the work.

Action: *It was the consensus of the Council to have staff return with the information, once gathered, before referring the information to the Planning Commission.*

2. Direct staff to amend consultant scope of services to meet with SEQ property owners to explore support for and to develop a release for a request for proposal for SEQ "sports recreation land use designation and PUD"

Action: *Council Member Sellers made a motion to move forward with this recommendation providing that the RFP is to include the update of the mitigation that would provide for the preservation of open space and/or other agricultural mitigation/agricultural uses for any proposal in the future.*

Mayor Tate inquired how specific the RPF would be as he was looking for a feasibility level review. He indicated that he was not trying to pin down uses.

Ms. Molloy Previsich said that staff is trying to state that it would like to meet with the property owners to test the market. Depending on the strength of interest, staff may report back to the Council that it received a lot of input, and that the next step would be to proceed with a specific plan or area planning process around this concept. She indicated that staff would like to be as inclusive as possible, and invite all property owners in the SEQ.

Action: *Mayor Tate seconded the motion.*

Council Member Grzan expressed reservations in moving forward with this item as it would set a precedent for the City in paying for a service. The City would be looking at coordinating efforts that should be paid by private property owners, and not the City. He felt this action would open the City to other property owners/areas coming forward and requesting the City pay for a study as a precedent would be set in paying for a SEQ study for property owners. He felt the study should be undertaken and paid for by the property owners.

Mayor Carr expressed concern with moving forward with item 2. He noted that there was discussion about the development of an open space and agricultural conversion policy, and that there is an order to how this works. He was not sure that this item should be taken on its own motion. He felt this action should be a part of the open space and agricultural conversion policy as it develops. He indicated that in reading through this item, the City is looking at ways to require potential residential developers/development within the city limits to provide mitigations outside the city limits as part of the RDCS process. As this may be one strategy, it is his hope that this is not the only one the City will be limited to. As the City develops the policy, the City needs to consider potential development for the SEQ that can help with the mitigation policy, and an innovative approach such as a sports-recreation concept. He expressed concern about taking a separate motion that authorizes the City to conduct a feasibility study on a sports-recreation concept. He felt this action should only be taken if it is seen to be a mitigation for preserving open space and agricultural properties in the SEQ.

Council Member Sellers clarified that his amended motion stipulates what Mayor Pro Tempore Carr addressed. He would like to explore some of the opportunities with the understanding that part of this review would be looking at mitigations. If there are exciting proposals presented, it may give the City the opportunity to preserve land.

Mayor Tate agreed with Council Member Sellers, and he also agreed with Mayor Pro Tempore Carr that the items are related to each other. However, he does not have a problem in spotlighting sports-commercial as a potential use.

Mayor Pro Tempore Carr felt that this is a package, and that the timing of the package is important. He felt the Council should be directing staff to return with a timeline on how the recommended actions will work together. He stated that he did not want the City to have a conversation with a property owner about the feasibility of a sports-recreation use on their property when the City has not yet discussed with property owners agricultural mitigations.

Ms. Molloy Previsich said that she hears Mayor Pro Tempore Carr stating that he would like the City to explore the sports-recreation use as part of the greenbelt financing and implementation strategy. It may be that this could be achieved through RDCS commitments or agricultural mitigations for other areas in the City. It could be that a sports-recreation designation/use could be a component of the City's greenbelt study because the City would be leveraging development in order to get developers to preserve agricultural and open space lands in the SEQ.

In response to Council Member Lee's question, Mayor Tate indicated that the Council may potentially consider annexing the SEQ sometime in the future.

City Manager Tewes noted that there is a Council desire to have a better understanding of how the items will be sequenced. He suggested the Council provide staff with some guidance, and to develop consensus. Staff would return with a report that would outline the process/efforts and how it is to be financed. He noted the City's general plan area includes the City's sphere of influence; including lands located outside the city limits, and that the City could plan for these areas. He stated that the City's general plan includes policies that indicate that it should preserve agricultural lands outside the city limits. He said that all of these items are relevant to the role of the City Council and its planning efforts.

Action: *Council Member Sellers and Mayor Tate withdrew their motion.*

Action: *It was the consensus of the City Council to provide the above direction to staff.*

11. APPROVAL OF ACCESS RESTRICTION AGREEMENT FOR MIRA LAGOS DRIVE

Mayor Tate announced that the Council has received a request to delay any decisions on this item because a property owner adjacent to one of the properties is requesting time to receive additional information. He recommended receiving a brief staff report, and that consideration be given to continuing this item to a future date.

City Manager Tewes informed the Council that this is not a typical public hearing. He stated that this matter is being brought to the Council at the initiation of a property owner. He recommended the Council hear a presentation from the applicant.

Director of Public Works Ashcraft informed the Council that a property owner owns three parcels located at the end of Mira Lagas Drive. The property owner has been trying to develop two of the parcels in the County for a number of years. He indicated that the third parcel is located within the city limits and is zoned open space. He stated that City staff has been talking to the property owner's representative regarding access to the property. Acknowledging that the area residents would like to preserve the quiet nature of the residential street, staff would like to do all it can to limit access. In discussion with the applicant's attorney, a suggestion was made to dedicate land across their property, and to restrict access for two homes on each of the two County lots. The property owner's representative suggests the property owner also owns a legal lot (2-acres) located within the city limits currently zoned open space. He acknowledged that the property owner would have a right to request a zone change at a future date. He informed the Council that the property owner has the legal right to access Mira Lagos Drive, and that the City can establish reasonable conditions to allow access. He informed the Council that staff invited property owners within 300 feet of the area consisting of approximately 30 property owners to a meeting held a couple of weeks ago. He indicated that four property owners attended the meeting and presented their issues to staff. These property owners were grateful of staff's attempts to restrict the number of vehicles that would be accessing this roadway. The adjacent property owners requested that a trail easement be established. He indicated that a trail is not identified on the City's Trail Master Plan. The adjacent property owners also expressed concern with the possibility of the construction of a home on the open space parcel. He indicated that this concern would be addressed at such time the property owner presents a change in zoning application. He indicated that staff would recommend minimizing future development to no more than three homes. He indicated that should the property owner desires to apply for a zone change, two homes could be accommodated on the 2+ acre open space zoned land. He stated that inclusion of the restriction of three homes on the three lots would help minimize the traffic through the dead end street.

Mayor Tate opened the floor to public comment.

Bart Hectman, representing the property owner, Ms. Granger, stated his support of staff's recommendation to approve the agreement. He said that State laws require a 10-day notice to allow an individual to study an issue and make a presentation before the Council. He noted that this issue was

presented to the neighbors on December 8, 2006; approximately 7 weeks ago. City staff hosted a public meeting on January 6, 2007 to explain the proposal. Further, a notice was mailed to adjacent property owners notifying them about this evening's Council meeting. He said that any neighbor who had concern about what was being requested had a long time to find someone who could help them understand what is taking place. He felt it unfair to the property owner to delay this item any further. He indicated that the neighbor would like to persuade the Council not to grant his client access through Mira Lagos and not to allow homes to be built on the open space parcel. He noted that Ms. Granger has unlimited legal access from Mira Lagas to all three parcels. He stated that he is not asking for access, but is surrendering access. He felt that the interest the neighbor has in limiting development is served by the proposal before the Council. The neighbor would also like to convince the Council not to allow a home to be constructed on the property currently zoned open space. He acknowledged that the property is currently zoned open space, and that this zoning designation allows a home to be built under certain circumstances. He clarified that a home could not be built under the current zoning. A zoning application would need to be submitted to change the zoning. At that time, the neighbors can address concerns about density. He did not see any benefit in delaying the matter as the neighbors have had adequate opportunity to study the matter. He requested the Council take action this evening.

Council Member Sellers felt that Mr. Hectman made a compelling case, and appreciated his arguments. He said that as a rule, the City goes above and beyond its legal parameters; and that the Council has a habit of granting continuances. Mr. Hectman has inferred that there were additional expenses his client would be incurring should the Council delay the matter. He requested that Mr. Hectman elaborate what these expenses might be.

Mr. Hectman indicated that the additional expenses would be in attorney fees.

Tom Harris indicated that he was not a lawyer or a land use expert. He indicated that he lives adjacent to the open space zoned parcel is located within the City. He acknowledged that he has been working with City staff, and that Public Works staff has been very cooperative. He did voice objections to the latest proposal regarding the open space property in early December. He has been asking to see the actual legal language contained in the deed restriction. He informed the Council that he finally received the legal document on January 19, 2007, four days ago. He stated that one of the phrases contained in the deed restriction states that the City does not have any objections to individual home sites being developed on each of the parcels. He indicated that the open space zoning district requires a minimum of 5-acres; noting that the parcel is a 2-acre lot. He noted that Measure C mentions that open space should remain as open space until 2020. He did not know why the City has no objections to rezoning the parcel. Further, it is mentioned that there would be no residential expansion of the urban growth boundary that would be inconsistent with the urban limit line/greenbelt; noting that the property is not located within the urban limit line, and is outside of the urban growth boundary/fringes of the community. A continuance would allow him the opportunity to consult/retain the services of a land use attorney. He informed the Council that he has not been able to find assistance and that he fully intends to do so.

No further comments were offered.

Director of Public Works Ashcraft clarified that the parcels in the County allow development of a home as long as it is a legal lot of record; even if it does not meet the minimum lot size standards. He stated that the agreement acknowledges that a home cannot be built on the lot located in the City's open space, but that the property owner could come before the City to request to change in zoning.

In response to Mayor Pro Tempore Carr's question, City Attorney Kern stated that the agreement stipulates that in order to build a home on the City's open space designated lot; the property owner would be required to submit a zoning amendment application. At the time of review of the zoning amendment application, the Council has the ability to approve or deny the application, at its discretion. She indicated that the agreement does not promise a zone change. Further, it makes it clear that should the Council approve a zone change that would allow housing to be built; only one home would be allowed access from Mira Lagas.

Mayor Tate agreed that the Council tends to grant continuances, if requested. He said that he does not have an objection to the continuance; however, he noted the applicant has an objection to the continuance.

Mayor Pro Tempore Carr stated that he would not want to set a precedent for a continuance just because an individual makes such a request. He felt that there needs to be a clear justification presented before a continuance is granted. He appreciated the clarification he received from staff about the intent of the grant deed, and the fact that it preserves the Council's right to make a decision on the zoning amendment application. He was initially concerned that the grant deed would imply the City would move forward with a zone change at a future date; indicating that this is not the intent. He did not want this grant deed returning to the Council and be used against the City in the future; implying that the City's will grant a zone change to allow residential development. He said that it has been made clear that the language contained in the grant deed states that this will not happen.

Council Member Lee stated that based on the clarification presented by the City Attorney, she would support moving forward this evening. She said that she understands Mr. Harris' concerns, but she also understands the applicant's desire to move forward.

Council Member Sellers said that it is clear the Council has absolutely no intention of changing the zoning of the open space parcel in the future. He recommended that this be clearly stated this evening. With this clarification, he would be comfortable in moving forward this evening.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0): 1) **Authorized** City Manager to Sign the Grant of Access Restriction Agreement on Behalf of the City, Subject to Review and Approval by the City Attorney; and 2) **Authorized** Recordation of the Grant of Access Restriction Agreement.*

12. UPDATE ON PERCHLORATE CONTAMINATION ISSUES

Director of Public Works Ashcraft presented an update on the perchlorate contamination issue. He indicated that the City has been arguing with the Regional Board for the past two years about declaring Olin a northeastern discharger. In December 2006, the Regional Board amended the original clean-up and abatement of the plume to include the northerly component of the plume. He informed the Council that on January 8, 2007, the Regional Board sent another letter to Olin criticizing some of their past work where they lifted a lot of technical data; specifically perchlorate detection in the deep aquifers. It was noted that they found perchlorate in the deep aquifers. He said that these two items are positive in moving Olin toward further investigation, and eventually to remediation of the contamination of the section that extends north from their site. He informed the Council that included in the packet is a set of perchlorate data requested by the Regional Board a few months ago. He indicated that the data collected by the City shows there are some traces of perchlorate at less than 4 parts per billion (ppb) in every City well. He cautioned that the City is estimating perchlorate concentration below the levels that the Department of Health Services would approve. He said that staff will be reporting both sets of information on the City's website.

Council Member Grzan indicated that the Utilities & Environment Committee received the report, and congratulated staff for two-years of effort to get to the point where Olin is declared the northeast discharger. In looking at the report, the comments made by the Regional Water Board indicate that a response is required from Olin by March 9, 2007. He felt that additional information would be made available at that time. As Olin has been declared a discharger, he would like to move forward with mitigation actions, and to have Olin clean up the problem.

Action: *On a motion by Council Member Sellers and seconded by Council Member Lee, the City Council unanimously (5-0) **Accepted** the Report.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

13. CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT MARKETING PLAN

Business Assistance and Housing Services Director Toy informed the Council that this is a proposal for designing a marketing advertising plan from the Chamber of Commerce's Economic Development Committee. He indicated that staff received a proposal from the Chamber of Commerce this evening, and that staff does not have a response to their proposal at this time.

Mayor/Chairman Tate opened the floor to public comment.

Dan Ehrler presented the Council an Economic Development Marketing and Advertising Plan and Business Facilitator and Advocate Position proposal. He read from a prepared statement that states that the City of Morgan Hill has an extraordinary opportunity to aggressively market, advertise, and sell Morgan Hill to businesses that may be considering a move or expansion of a business. He identified three actions the Chamber of Commerce believes are needed in order to capitalize on the opportunities

established by the Council per the handout distributed this evening. He indicated that he understands the Council will be addressing policies and setting goals in its planning retreat. He said that the Chamber of Commerce has a goal of filling empty spaces in existing buildings, and to place buildings/businesses in open land. It is also their goal to fill the retail opportunities that currently exist, and to plan for the near and distant future. He felt that the proposal presented this evening is a way of achieving these goals. It is his hope that this proposal would be included in the Council's discussion during its planning retreat, and that it support the proposal of a private/public sector investment as part of the fiscal year 2007-08 budget process.

Mark Denham, President of 247 Workspace, stated that in the 7 months in Morgan Hill, they have enjoyed the community immensely. He indicated that the business was located in Los Gatos prior to relocating to Morgan Hill; a high rent district. Since moving to Morgan Hill in June 2006, they have hired 8 individuals, and have a payroll of approximately \$3 million. He said that they do business with individuals in Morgan Hill. He indicated that the City assisted with an incentive plan in order to relocate the business to Morgan Hill. He informed the Council that the City is receiving a great return on its investment from 247 Workspace as they are heavily invested in the community. He would like others to know what a great place Morgan Hill is to do business. He said that someone needs to tell businesses about Morgan Hill, be their advocates, and assist them in relocating to Morgan Hill. It is the Chamber of Commerce's belief that it can achieve \$250,000 from the business community, and that the money can be used for marketing, salaries and advertising. It is the intent to get the message out in a successful and proactive manner.

No further comments were offered.

Council Member Grzan agreed that Morgan Hill is a charming community, and that the City should work with the Chamber of Commerce.

Council Member Sellers acknowledged that the Council will be meeting in a retreat, and that it was his hope the Council will have the opportunity to discuss economic development. As part of this discussion, the Council can incorporate some of the Chamber of Commerce's thoughts, get a sense of direction, and provide for that.

Action: *By consensus, the Council **Received** a Presentation from the Morgan Hill Chamber of Commerce's Economic Development Committee (EDC).*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

- Staff to return with a report on the mitigation efforts associated with the golf course (Council Member Grzan)
- Report from the Morgan Hill Community Health Foundation (Council Member Lee)

Mayor Tate indicated that he has communicated with the Morgan Hill Community Health Foundation that they are expected to present a report on February 7, 2007; however, he has not received a response. It is his hope that a presentation will be made on February 7, 2007.

ADJOURNMENT

There being no further business, Mayor/Chairman Tate adjourned the meeting at 10:03 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY